

FILED
DISTRICT CLERK OF
JEFFERSON CO TEXAS
11/28/2022 12:00 AM
JAMIE SMITH
DISTRICT CLERK
A-210752

CASE NO. A-210752

TEXAS NATIONALIST MOVEMENT	§	IN THE DISTRICT COURT
and DANIEL MILLER, individually	§	
and on behalf of all others similarly	§	
situated.	§	
	§	
Plaintiffs,	§	
	§	
v	§	58 th JUDICIAL DISTRICT
	§	
META PLATFORMS, INC.	§	
	§	
Defendant.	§	JEFFERSON COUNTY, TEXAS

**PLAINTIFFS' FIRST AMENDED PETITION AND
APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND TEMPORARY AND PERMANENT INJUNCTIVE RELIEF**

COMES NOW, Texas Nationalist Movement ("TNM") and Daniel Miller ("Miller") (together, "Class Representatives"), and brings this their First Amended Petition and Application for Temporary Restraining Order and Temporary and Permanent Injunctive Relief on behalf of themselves and all others similarly situated (collectively, "Plaintiffs") against Defendant Meta Platforms, Inc. ("Meta" or "Defendant") and respectfully represent the following:

**I.
SUMMARY OF ACTION**

1. This is an action under Texas Civil Practice & Remedies Code ("CPRC") Chapter 143A ("Chapter 143A") for censorship of Plaintiffs' viewpoints. Under Chapter 143A, "[a] social media platform may not censor a user, a user's expression, or a user's ability to receive the expression of another person based on: (1) the viewpoint of the user or another person; (2) the viewpoint represented in the user's

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expression; or (3) a user's geographic location in this state or any part of this state.”
CPRC § 143A.002.

2. Meta has censored Plaintiffs because of their viewpoints in violation of Chapter 143A by restricting their ability to post the TEXTnow.org link. *See* CPRC § 143A.001(1).

3. Accordingly, Plaintiffs are entitled to a declaratory judgment and attorneys' fees under CPRC Chapter 37 and injunctive relief ordering Defendant restrained from censoring Plaintiffs. CPRC § 143A.007. If Defendant fails to promptly comply with the Court's order, the Court must hold Defendant in contempt and “shall use all lawful measures to secure immediate compliance with the order, including daily penalties sufficient to secure immediate compliance.” *Id.*

II. DISCOVERY CONTROL PLAN

4. Discovery should be conducted under Level 3 in accordance with a tailored discovery control plan under Rule 190.4 of the Texas Rules of Civil Procedure (“TRCP”).

III. CLAIM FOR RELIEF

5. Plaintiffs seek only nonmonetary injunctive relief and attorneys' fees and costs in an amount less than \$75,000. Under no circumstance will Plaintiffs seek more than \$75,000 due to the simple nature of their claims.



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**IV.
PARTIES**

6. Plaintiff and Class Representative, TNM, is an unincorporated Texas nonprofit association with its principal office located in Jefferson County, TX.

7. Plaintiff and Class Representative, Daniel Miller, is an individual residing in Jefferson County, TX.

8. Defendant Meta is a foreign corporation whose corporate office is located at 1 Hacker Way, Menlo Park, CA 94025 and who may be served with process through its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218 or wherever it may be found.

**V.
JURISDICTION**

9. The Court has subject matter jurisdiction over this claim pursuant to Chapter 143A of the CPRC.

10. The Court has personal jurisdiction over Meta pursuant to the Texas's long-arm statutes, CPRC § 17.041 et seq., because of its continuous and systematic contacts with the State of Texas and because Plaintiffs' claims arise out of Meta's specific contacts with the State of Texas in contracting with Plaintiffs and censoring Plaintiffs in violation of Texas law. Meta has purposefully availed itself to be sued in Texas by its actions and/or can reasonably anticipate being sued in Texas.

11. Meta's forum selection clause in its user agreement specifying venue in California is void and unenforceable pursuant to CPRC § 143A.003 and as a matter



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of strong Texas public policy. The Texas Legislature enacted Chapter 143A by passing H.B. 20 in the 87th legislative session. Section 1 of H.B. 20 provides:

The legislature finds that: (1) each person in this state has a fundamental interest in the free exchange of ideas and information, including the freedom of others to share and receive ideas and information; (2) *this state has a fundamental interest in protecting the free exchange of ideas and information in this state*

CENSORSHIP OF OR CERTAIN OTHER INTERFERENCE WITH DIGITAL EXPRESSION, INCLUDING EXPRESSION ON SOCIAL MEDIA PLATFORMS OR THROUGH ELECTRONIC MAIL MESSAGES, 2021 Tex. Sess. Law Serv. 2nd Called Sess. Ch. 3 (H.B. 20) (VERNON'S) (emphasis added).

12. Pursuant to this stated legislative purpose, the Texas Legislature expressly prohibited social media platforms from contracting around the protections provided to Texans by Chapter 143A:

(a) A waiver or purported waiver of the protections provided by this chapter is void as unlawful and against public policy, and a court or arbitrator may not enforce or give effect to the waiver, including in an action brought under Section 143A.007, notwithstanding any contract or choice-of-law provision in a contract.

(b) The waiver prohibition described by Subsection (a) is a public-policy limitation on contractual and other waivers of the highest importance and interest to this state, and this state is exercising and enforcing this limitation to the full extent permitted by the United States Constitution and Texas Constitution.

CPRC § 143A.003.

13. Pursuant to the foregoing, any contractual waiver or purported waiver of a Texan's right to sue a social media platform for censorship in the state of Texas is unenforceable under H.B. 20. This is especially applicable where, as here, the contractual venue is California—the very state from which all social media

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censorship is perpetrated against Texans. Thus, as a matter of law and strong Texas public policy, Meta's forum selection clause cannot deprive a Texas court of personal jurisdiction.

VI. FACTUAL ALLEGATIONS

14. On October 11, 2022, Class Representatives were alerted to the fact that, when Facebook users attempted to post TNM's link, "TEXTITnow.org," which points to TNM's homepage, <https://tnm.me/textit>, Meta prevented each and every user from sharing the link with a notice stating, "Your content couldn't be shared because the link goes against our Community Standards."¹ TNM and Daniel Miller tried to share this link directly from their accounts and were met with the same result.² Class Representatives initiated Facebook's appeal process using the link provided, but Meta refused to lift the restrictions on posting the link and did not specify which Facebook Community Standards Class Representatives had violated.³

15. TNM's mission, as published on their website, is "to secure and protect the political, cultural and economic independence of the nation of Texas and to restore and protect a constitutional Republic and the inherent rights of the people of Texas."⁴ TNM's primary solution for its mission is to place a referendum for Texas independence on the ballot to allow Texans to vote on whether or not they want Texas

¹ Exhibit A, Declaration of Daniel Miller.

² *Id.*

³ *Id.*

⁴ TNM, *MEET THE TNM*, available at <https://tnm.me/about> (last visited Nov. 13, 2022).

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to withdraw from the United States through a process comparable to the United Kingdom voting to withdraw from the European Union.⁵

16. BREXIT was the popular name given to the process of the UK withdrawing from the EU.⁶ TNM uses the term “TEXTIT” in similar fashion.⁷ According to TNM’s website:

TEXTIT is the term used to refer to Texas exiting the union and becoming an independent, self-governing population. TEXTIT is not Texas independence. Rather, TEXTIT means that Texans determine our own laws and not 2.5 million unelected bureaucrats in Washington. It mean that we get a government that begins and ends at the borders of Texas. It means an end to the giant sucking sound of \$103-\$160 billion dollars per year being siphoned from the pockets of Texas taxpayers. Most importantly, it means that for the first time in our lives we control our own destiny.⁸

17. Nothing about TNM’s mission or the TEXTIT process for which it advocates violates the Facebook Community Standards. These Community Standards include prohibitions based on (1) violence and criminal behavior; (2) safety issues such as suicide, self-harm, sexual exploitation, bullying, harassment, etc.; (3) other objectionable content including hate speech, violent and graphic content, adult nudity and sexual activity, and sexual solicitation.⁹

18. Some of the censorship activities covered under the Facebook Community Standards are allowed under Chapter 143A:

⁵ See *id.*; TNM, *TEXTIT webpage*, available at <https://tnm.me/textit> (last visited Nov. 13, 2022); *Brexit*, Wikipedia, available at <https://en.wikipedia.org/wiki/Brexit> (last visited Nov. 13, 2022).

⁶ *Brexit*, Wikipedia, available at <https://en.wikipedia.org/wiki/Brexit> (last visited Nov. 13, 2022).

⁷ See *supra*, note 4 (webpages cited).

⁸ TNM, *TEXTIT webpage*, available at <https://tnm.me/textit> (last visited Nov. 13, 2022).

⁹ Meta, *Facebook Community Standards*, available at <https://transparency.fb.com/policies/community-standards/> (last visited Nov. 13, 2022).

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(a) This chapter does not prohibit a social media platform from censoring expression that:

- (1) the social media platform is specifically authorized to censor by federal law;
- (2) is the subject of a referral or request from an organization with the purpose of preventing the sexual exploitation of children and protecting survivors of sexual abuse from ongoing harassment;
- (3) directly incites criminal activity or consists of specific threats of violence targeted against a person or group because of their race, color, disability, religion, national origin or ancestry, age, sex, or status as a peace officer or judge; or
- (4) is unlawful expression.

CPRC § 143A.006(a).

19. However, none of these exceptions apply to Plaintiffs posting the TEXTITnow.org link. There is nothing criminal, violent, or otherwise illegal about TEXTIT or TNM's mission or advocacy. Specifically, there is no prohibition in the United State Constitution, the United States Code, Texas law, or any other applicable law that forbids advocating for a legal referendum on Texas independence.

20. The Constitution of the United States defines the specific acts States are forbidden from committing in Article 1, Section 10, and there is no mention of States exiting the Union. *See* U.S. Const. art. I, § 10. Nowhere in the remainder of the Constitution is the issue of a State leaving the Union explicitly or implicitly forbidden, nor is power ceded to the federal government to prohibit a State from doing so. Moreover, the Tenth Amendment expressly reserves all powers "not delegated to the United States by the Constitution" as "reserved to the States respectively, or to the people." U.S. Const. amend. X.



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21. In fact, the Texas Constitution appears to impose a duty to have a referendum on statehood and independence under circumstances where the United States has failed in its explicit duty under the “Guarantee Clause” of the U.S. Constitution to “guarantee to every State in this Union a Republican Form of Government and shall protect each of them against Invasion.” U.S. Const. art. IV, § 4. Article 1, Section 1 of the Texas Constitution expressly sets forth the conditions upon which Texas will remain in the Union: “Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.” Tex. Const. art. I, § 1.

22. Continuing on the topic of freedom and independence, article 1, section 2 of the Texas Constitution explicitly provides that the power to determine how Texans govern themselves resides in the people of Texas alone: “All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.” Tex. Const. art. I, § 2.

23. While 18 U.S.C. § 2385 prohibits advocating for “overthrowing or destroying the government of the United States or the government of any State,” this prohibition only applies to advocating for such overthrow or destruction “by force or violence, or by the assassination of any officer of any such government.”

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24. Accordingly, there is nothing illegal or unconstitutional about TEXIT because TNM is advocating strictly for a legal process in conformity to the precepts expressed in the Texas Constitution, where, in its viewpoint, the United States has failed in its duty under the Guarantee Clause.¹⁰ Nothing in TNM's advocacy or mission involves any suggestion of force or violence. In fact, TNM's Code of Conduct specifically prohibits the use of force or violence and criminal conduct by its members.

25. TNM's Code of Conduct specifically mandates, "Members shall not advocate for or engage in the initiation of force or violence as an instrument of political change."¹¹ The TNM Code of Conduct further prohibits unlawful and/or violent conduct in the following provisions: (a) "Members shall not participate in nor advocate for the commission of any criminal act whether or not it is related to the Texas Nationalist Movement," (b) "Members shall conduct themselves in a courteous and lawful manner at all times," (c) "Members are expressly prohibited from fraternizing with known criminals, known or suspected criminal organizations and their members, associates or affiliates," and (d) "Members shall not advocate for, nor be a member or associate with any organization, formally or informally that advocates for, discrimination, violence, or hatred toward any person based upon their race, country of origin, creed, or color."¹²

¹⁰ See TNM, *TEXIT webpage*, available at <https://tnm.me/texit> (last visited Nov. 13, 2022) (describing how the federal government has failed in its duty under the Guarantee Clause by allowing "unelected bureaucrats" to undermine republican form of government in Texas).

¹¹ TNM, *Code of Conduct*, available at <https://tnm.me/conduct/> (last visited Nov. 13, 2022).

¹² *Id.*

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26. Thus, there is no Facebook Community Standard to which Meta could point that would justify its censorship of Plaintiffs without violating Chapter 143A. In sharing the TEXTnow.org link on Facebook, Plaintiffs have expressed their viewpoint that they believe Texans would be better off if Texas became a free and independent nation through the legal, democratic process they refer to as TEXT. Meta has censored this viewpoint by banning all posts containing the TEXTnow.org link, and therefore, Plaintiffs are entitled to the declaratory and injunctive relief prescribed by Chapter 143A.

VII. CLASS ACTION ALLEGATIONS

27. Pursuant to TRCP Rule 42, Class Representatives bring this action on behalf of themselves and all others similarly situated as representatives of the following class: all persons whom Meta censored for posting the TEXTnow.org link as part of the expression of their viewpoints. As described below, this action satisfied the numerosity, commonality, typicality, and adequacy of representation requirements of Rule 42.

A. Numerosity.

28. The persons in the class are so numerous that joinder of all members is impracticable. There are currently 185 individuals Meta has censored in the exact same manner as Class Representatives.¹³

B. Commonality.

¹³ Exhibit A.
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29. There are common questions of law or fact affecting the class. Each of these putative class members have submitted screenshots to Class Representatives evidencing Meta's censorship of all of them in the same manner.¹⁴ A sampling of ten of these screenshots is attached hereto as Exhibit B. The common questions of law and fact affect every class member is whether Meta censored them for posting the TEXITnow.org link because of their viewpoint and/or the viewpoint of TNM in violation of Chapter 143A.

C. Typicality.

30. The claims of Class Representatives are typical of the claims of the rest of the class in that Meta censored Class Representatives and the putative class members in the exact same manner. Specifically, Meta censored Class Representatives and the putative class members by banning posts containing the TEXITnow.org link in violation of Chapter 143A.

D. Fair and Adequate Representation.

31. TNM and Daniel Miller will fairly and adequately represent the interests of the class in that (1) Class Representatives are members of the proposed class, (2) Class Representatives have expressed interest in representing the class, (3) Class Representatives are willing to pay the costs of notice and litigation, (4) Class Representatives have no interest adverse to the other members of the class, and (5) Class Representatives have suffered the same harm as the class.

E. Proposed Class Counsel is Adequate.

¹⁴ *Id.*

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32. Paul Davis requests appointment as class counsel. Davis has years of experience in class action litigation defending employers in wage and hour claims by classes of over 100 class members. Specifically, while working as a associate attorney with Andrews Kurth, now known as Hunton Andrews Kurth, Davis represented three employers in the oil and gas services industry in FLSA failure-to-pay overtime class actions (called “collective actions” in the employment law context) and obtained summary judgment for another in a WARN Act class action.

33. Davis worked under the supervision of a partner but did nearly all of the work defending these employers through the pleadings, motion practice, and the discovery process, until he was able to obtain an acceptable settlement for the defendants or get the case dismissed on summary judgment. During his time with Andrews Kurth, Davis also performed an enormous amount of legal research and analysis for firm clients defending class actions related to asbestos mass tort claims.

34. These class/collective action lawsuits were substantially more complex than the current action. Davis has been researching and analyzing the relatively simple Chapter 143A for months. He previously brought a lawsuit under Chapter 143A against Meta for former Texas gubernatorial candidate, Chad Prather, in which he successfully obtained a temporary restraining order to lift restrictions from Prather’s Facebook account in the week leading up to the primary election.

35. Davis’s law firm, Paul M. Davis & Associates, P.C., currently has one full-time associate attorney, three part-time staff attorneys, and two paralegals to assist him in this case. Davis will be able to devote the vast majority of his time to



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this case because his supporting attorneys and staff will be able to handle most of the firm's other matters.

F. Common Questions of Law and Fact Predominate.

36. Common questions of law or fact predominate over any questions affecting only individual members. The substantive issue that controls the outcome of this litigation is whether Meta censored Plaintiffs' viewpoint in violation of Chapter 143A by banning Plaintiffs' posts containing the link.

G. Injunctive and Declaratory Relief is Appropriate.

37. Defendant Meta has acted on grounds generally applicable to the class by censoring all class members in the exact same manner in violation of Chapter 143A, thereby making declaratory and injunctive relief, as prescribed by CPRC § 143A.007, appropriate. Plaintiffs seek declaratory relief that Meta has censored them in violation of Chapter 143A and seek a temporary restraining order, temporary injunction, and permanent injunction applicable to the class restraining Meta from censoring posts containing the TEXTnow.org link.

38. Accordingly, Class Representatives request that the Court certify the class as described in this petition and appoint Paul Davis as class counsel and grant the declaratory and injunctive relief requested herein.



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VIII.
CAUSE OF ACTION

Declaratory Relief for Social Media Censorship – Tex. Civ. Prac. & Rem. Code § 143A.

39. Plaintiff incorporates all of the factual allegations stated above and in the attached exhibits as though fully set forth herein.

40. Tex. Civ. Prac. & Rem. Code (“CPRC”) Chapter 143A was passed into law by the 87th Texas Legislature and became effective on December 2, 2021. This is a case of first impression regarding this new statute since there is no Texas appellate precedent.

41. CPRC § 143A.002 provides: “(a) a social media platform may not censor a user, a user’s expression, or a user’s ability to receive the expression of another person based on: (1) the viewpoint of the user or another person; (2) the viewpoint represented in the user’s expression or another person’s expression; or (3) a user’s geographic location in this state or any part of this state.”

42. “Censor means to block, ban, remove, deplatform, demonetize, de-boost, restrict, deny equal access or visibility to, or otherwise discriminate against expression.” CPRC § 143A.001(1).

43. CPRC § 143A.007 provides: “(a) a user may bring an action against a social media platform that violates this chapter with respect to the user. (b) If the user proves that the social media platform violated this chapter with respect to the user, the user is entitled to recover: (1) declaratory relief under Chapter 37, including

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costs and reasonable and necessary attorney's fees under Section 37.009; and (2) injunctive relief."

44. Subsection (c) provides: "If a social media platform fails to promptly comply with a court order in an action brought under this section, the court shall hold the social media platform in contempt and shall use all lawful measures to secure immediate compliance with the order, including daily penalties sufficient to secure immediate compliance." CPRC § 143A.007(c).

45. Meta's Facebook is a social media platform that has more than 50 million active users in the United States during a calendar month.

46. Plaintiffs are Facebook users who resides in the State of Texas.

47. Meta censored Plaintiffs in violation of Chapter 143A when it censored their posts containing the TEXTnow.org link.

48. Accordingly, Plaintiffs are entitled to declaratory relief under Chapters 37 and 143A of the CPRC that Facebook has unlawfully censored them and are entitled a temporary restraining order and temporary and permanent injunctive relief against Facebook ordering it to allow Plaintiffs' posts containing the TEXTnow.org link.

IX.
APPLICATION FOR TEMPORARY RESTRAINING ORDER AND
TEMPORARY AND PERMANENT INJUNCTIVE RELIEF

49. Plaintiffs incorporate all of the factual allegations stated above and in the attached exhibits to this Petition as though fully set forth herein.

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50. Plaintiffs request that the Court restrain Meta from censoring their posts containing the TEXITnow.org link. Censoring includes banning or restricting equal visibility to such posts and/or any other form of discriminating against these posts or the accounts of the users who have posted this content. *See* CPRC § 143A.001(1).

51. Plaintiffs request that, after the issuance of any order restraining Meta from censoring Plaintiffs, the Court impose daily penalties on Meta for each day that it continues to censor Plaintiffs pursuant to Tex. Civ. Prac. & Rem. Code 143A.006(c) in an amount sufficient to secure compliance with the Court's order. Plaintiffs propose an initial daily fine of \$10,000, which doubles every day that Meta continues to censor any of the Plaintiffs in violation of an order pursuant to Chapter 143A, i.e. \$20,000, then \$40,000, then \$80,000, then \$160,000, then \$320,000, etc.

52. Plaintiffs have a probable right to relief on the merits at trial because it is undeniable that Meta has censored Plaintiffs in violation of Chapter 143A because of their viewpoint in favor of a legal process toward Texas independence.

53. Plaintiffs suffer immediate and irreparable harm every day that Meta continues to censor Plaintiffs. As the U.S. Supreme Court and the Fifth Circuit have both held, “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Sambrano v. United Airlines, Inc.*, No. 21-11159, 2022 U.S. App. LEXIS 4347, at *19 (5th Cir. 2022) (citing *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976); *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012)).

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54. Although *Elrod* and *Opulent Life* were First Amendment actions against government or government officials, the *Sambrano* court held, “[W]e do not agree that the fact that this is a statutory action instead of an action under the First Amendment meaningfully transforms what a plaintiff must show to demonstrate irreparable injury.” *Id.* Moreover, as here, *Sambrano* involved a statutory action (Title VII) against a private company (United Airlines).

55. Regarding H.B. 20, the Texas Legislature found that: “social media platforms function as common carriers, are affected with a public interest, are central public forums for public debate, and have enjoyed governmental support in the United States.” H.B. 20, Section 1, (3). Thus, for purposes of the fundamental constitutional right to free speech, the Texas Legislature recognized that social media platforms are the modern day public square for free speech and are common carriers for this purpose.

56. Accordingly, Meta’s actions in censoring Plaintiffs unquestionably constitutes immediate and irreparable injury by depriving them of their fundamental rights to the free exchange of ideas and information in the public square of social media, as recognized by the Texas Legislature.. This is especially true where it has recently been revealed through litigation brought by the Missouri and Louisiana Attorneys General, that Meta has been colluding with the federal government to



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censor speech.¹⁵ As the Missouri AG pointed out, “Government can’t outsource its censorship to Big Tech.”¹⁶

57. Plaintiffs have no adequate remedy at law because monetary damages are not available under any applicable law to remedy the harm Plaintiffs continue to suffer on a daily basis by not being able to freely express their viewpoints on Facebook.

58. There is no risk of harm to Meta in granting the injunctive relief requested herein because the United States Court of Appeal, Fifth Circuit has found that social media platform providers such as Meta, do not have a First Amendment right to censor its users. *NetChoice, L.L.C. v. Paxton*, 49 F.4th 439, 445 (5th Cir. 2022) (“Today we reject the idea that corporations have a freewheeling First Amendment right to censor what people say.”).

59. Upon filing, Plaintiffs will notify Meta of their application for temporary restraining order by email to Meta’s Texas-based outside counsel, Kirkland & Ellis, and will promptly notify the same of the setting for any hearing on this matter.

60. Plaintiffs ask the Court to set a temporary injunction hearing and, after the hearing, issue a temporary injunction against Meta restraining it from censoring Plaintiffs’ posts containing the TEXTnow.org link pending trial on the merits and

¹⁵ See Zachary Stieber, *Over 50 Biden Administration Employees, 12 US Agencies Involved in Social Media Censorship Push: Documents*, The Epoch Times (Sept. 1, 2022), available at https://www.theepochtimes.com/mkt_app/over-50-biden-administration-employees-12-us-agencies-involved-in-social-media-censorship-push-documents_4704349.html (referencing *Missouri, et al. v. Joseph R. Biden Jr, et al.* Case No. 3:22-CV-01213 (W.D. La. 2022)).

¹⁶ Matthew Vadum, *Federal Judge Orders Biden Administration to Cooperate in Social Media Collusion Lawsuit: ‘Government can’t outsource its censorship to Big Tech,’ Missouri attorney general says*, The Epoch Times (July 13, 2022), available at https://www.theepochtimes.com/federal-judge-orders-biden-administration-to-cooperate-in-social-media-collusion-lawsuit_4595222.html.

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imposing any other censorship on Plaintiffs because of their viewpoints. This is because it is likely Meta will retaliate against Plaintiffs by censoring them in other creative ways for asserting their rights under Chapter 143A and expressing their viewpoints on Facebook.

61. After a trial on the merits, Plaintiffs request the Court issue a permanent injunction, forever restraining Meta from censoring Plaintiffs because of their viewpoints.

**X.
ATTORNEYS' FEES**

62. Plaintiffs requests their reasonable and necessary attorneys' fees and costs related to this lawsuit pursuant to CPRC §§ 37.009 and 143A.007(a)(1). Under no circumstance will Plaintiffs seek more than \$75,000 in attorneys' fees and costs.

**XI.
CONDITIONS PRECEDENT**

63. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

**XII.
JURY DEMAND**

64. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

**XIII.
PRAYER FOR RELIEF**

WHEREFORE, Texas Nationalist Movement and Daniel Miller, on behalf of themselves and as representatives of a class of all others similarly situated, pray that

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the Court (a) grant their application for temporary restraining order in the form of order attached hereto or similar form, (b) set a hearing for and grant a temporary injunction extending the same relief pending trial on the merits, (c) grant a permanent injunction after trial on the merits, (d) award them their reasonable attorneys' fees and court costs in an amount not to exceed \$75,000, (e) grant pre-judgment and post-judgment interest, and (f) grant all other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/ Paul M. Davis
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Texas Bar No. 24078401
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ATTORNEY FOR PLAINTIFFS

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EXHIBIT A

CASE NO. A-210752

TEXAS NATIONALIST MOVEMENT	§	IN THE DISTRICT COURT OF
and DANIEL MILLER, individually	§	
and on behalf of all others similarly	§	
situated.	§	
	§	
Plaintiffs,	§	
	§	
v	§	<u>58th</u> JUDICIAL DISTRICT
	§	
META PLATFORMS, INC.	§	
	§	
Defendant.	§	
	§	JEFFERSON COUNTY, TEXAS

DECLARATION OF DANIEL MILLER

My name is Daniel Miller, my date of birth is November 24, 1973, and my address is 2219 Avenue M, Nederland, Texas 77627. I am competent to make this declaration.

I am the President of Texas Nationalist Movement ("TNM") and am duly authorized to make this statement both for myself and on behalf of TNM.

On October 11, 2022, I was alerted to the fact that, when Facebook users attempted to post TNM's link, "TEXTnow.org," which points to TNM's homepage, <https://tnm.me/textit>, Meta Platforms, Inc. ("Meta") prevented each and every user from sharing the link with a notice stating, "Your content couldn't be shared because the link goes against our Community Standards" or substantially similar notice. Below is a true and correct copy of a screenshot of the notice I first received from a Facebook user who had attempted to share the link.

Story Posing: 04/11/2022

Attention: [Daniel Miller]. Try typing in Textnow.org on Facebook and see what happens. It goes against community standards. But your link works as a link that doesn't go against community standards. This is not a link.

TNM attempted to share the link from its Facebook account and met with the same result, as evidenced by the following true and correct copy of a screenshot of this result. I initiated the Facebook appeals process using the link provided, but Meta refused to lift the restrictions on posting the link and did not specify which Facebook Community Standards TNM and/or I had violated.

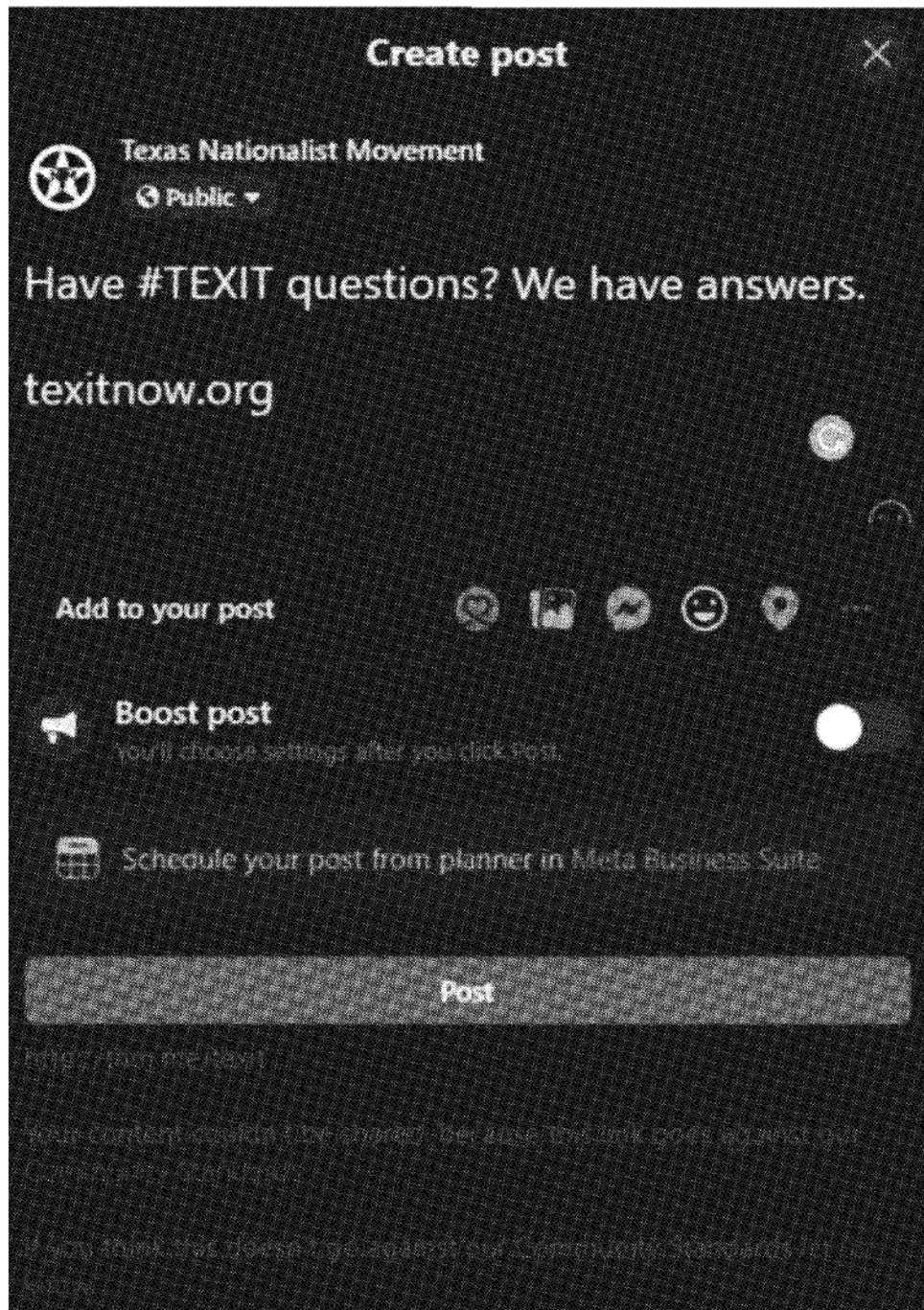
I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

December 05, 2022

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I attempted to post the link from my individual Facebook account and was met with the same result.

Since that time, 185 other individual Facebook users have notified TNM that they experienced the same result when posting the TEXTITNOW.org link on Facebook. A sampling of ten true and correct copies of screenshots we received from these individuals is attached to Plaintiffs' Original Petition, Application for

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Temporary Restraining Order and Temporary and Permanent Injunctive Relief (the “Original Petition”) as Exhibit B.

TNM and I both desire to represent the proposed class of individuals who have been censored in the same manner, as set forth in the Original Petition, and are willing to pay the costs of notice and litigation. TNM and I have no known adverse interests to the other members of the proposed class.

TNM and I have suffered and will continue to suffer immediate and irreparable harm by Meta’s deprivation of our fundamental rights to free speech through its role as a common carrier in the public square of Facebook. This is the same type of harm suffered by the proposed class.

I declare under penalty of perjury the foregoing is true and correct and is within my personal knowledge. This declaration was executed in Jefferson County, Texas on November 13, 2022.

/s/ Daniel Miller

Daniel Miller

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

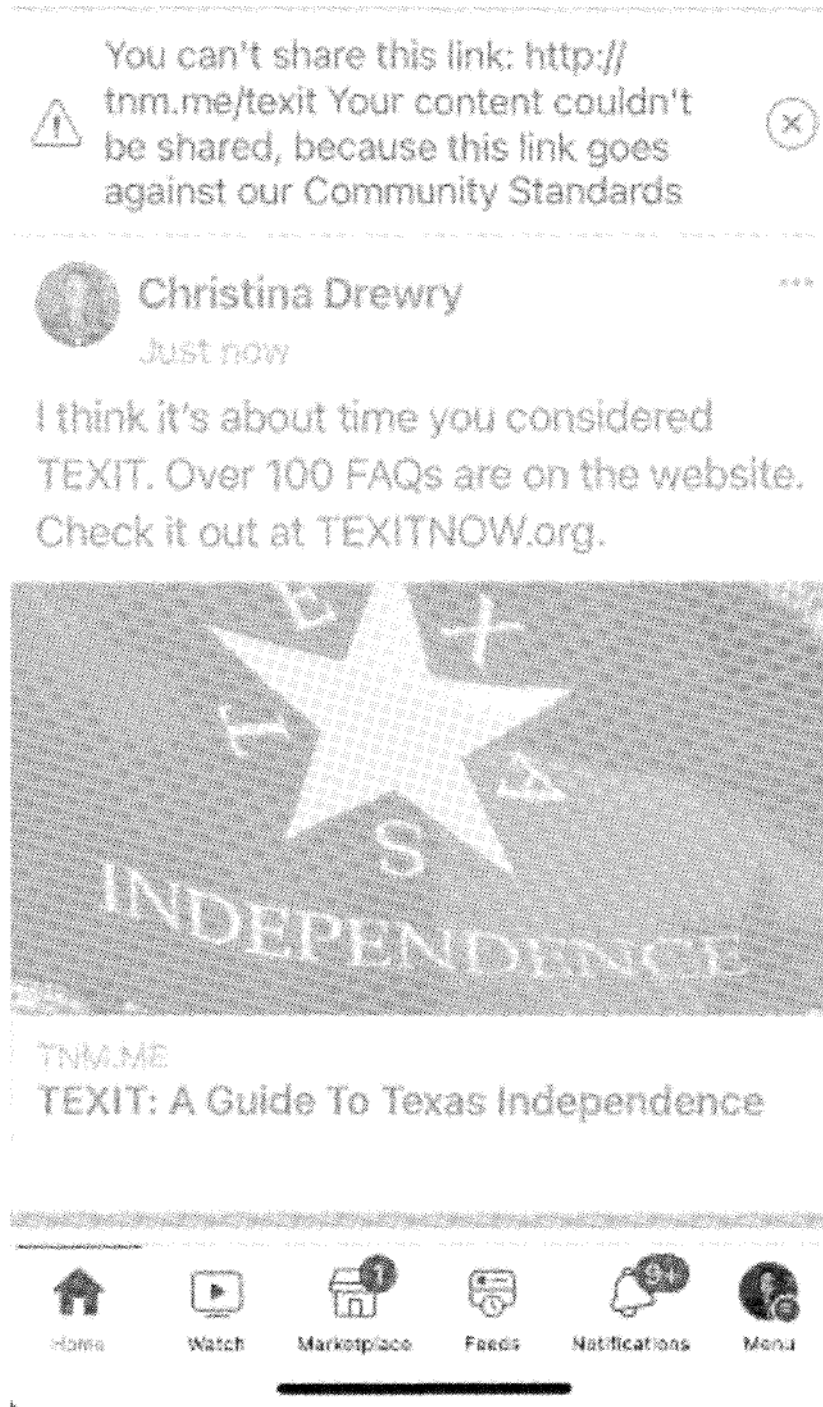
December 05, 2022

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EXHIBIT B



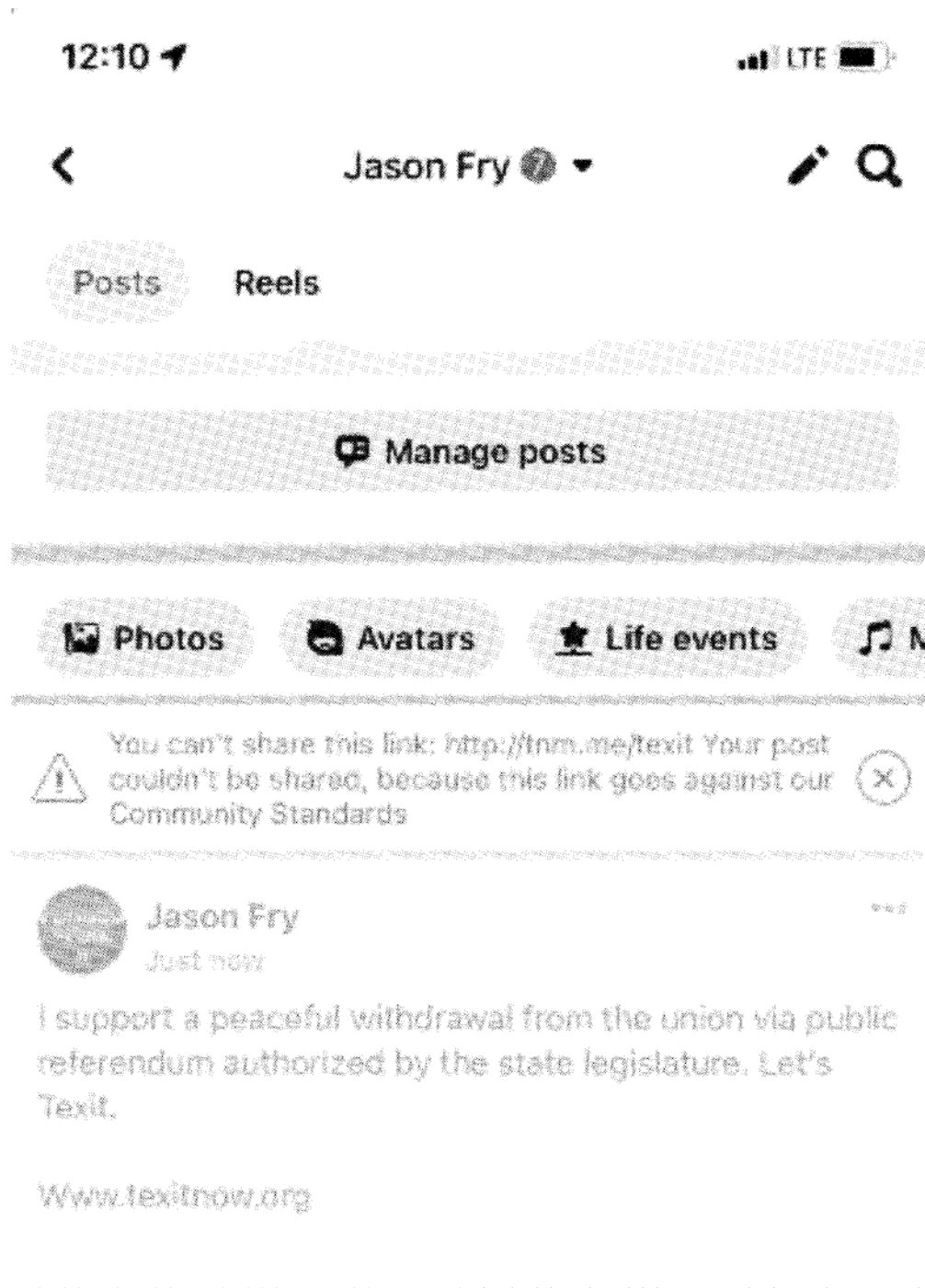
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You can't share this link: <http://trm.me/textit>
Your post couldn't be shared, because this link goes against our Community Standards



Richard Blake

Just now

It's time for the upcoming Texas legislature to pass a bill putting a referendum on the 2023 ballot allowing Texans to have an up or down vote on independence. What are the naysayers afraid of? #TEXTIT

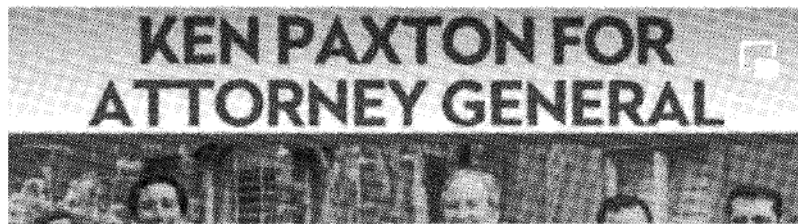
TEXTITNOW.org



Breitbart

27m ·

In a computer chip manufacturing event in upstate New York, Joe Biden falsely claimed that gas was over \$5 a gallon when he took office.



Home



Marketplace



Gaming



Feeds



Notifications



Menu

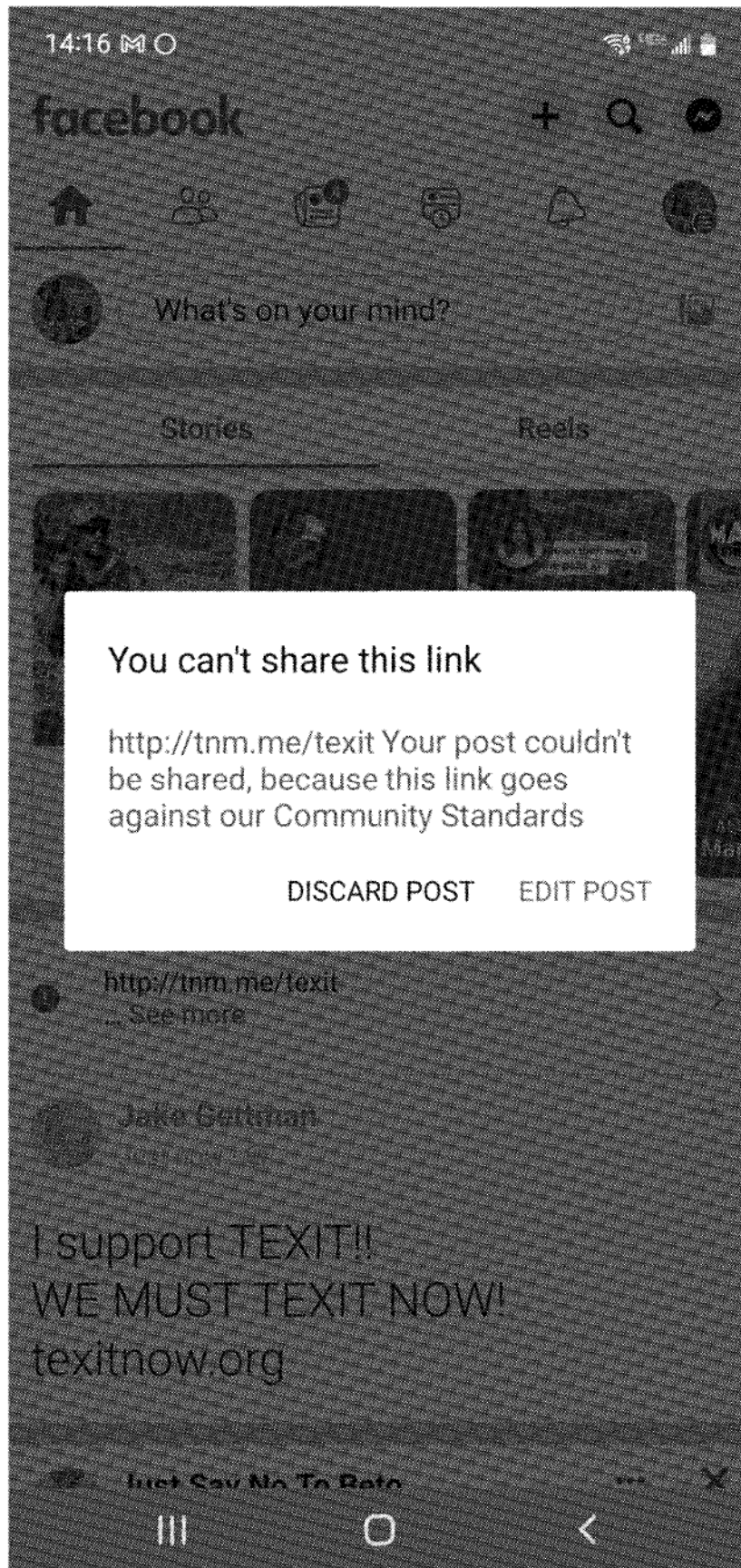
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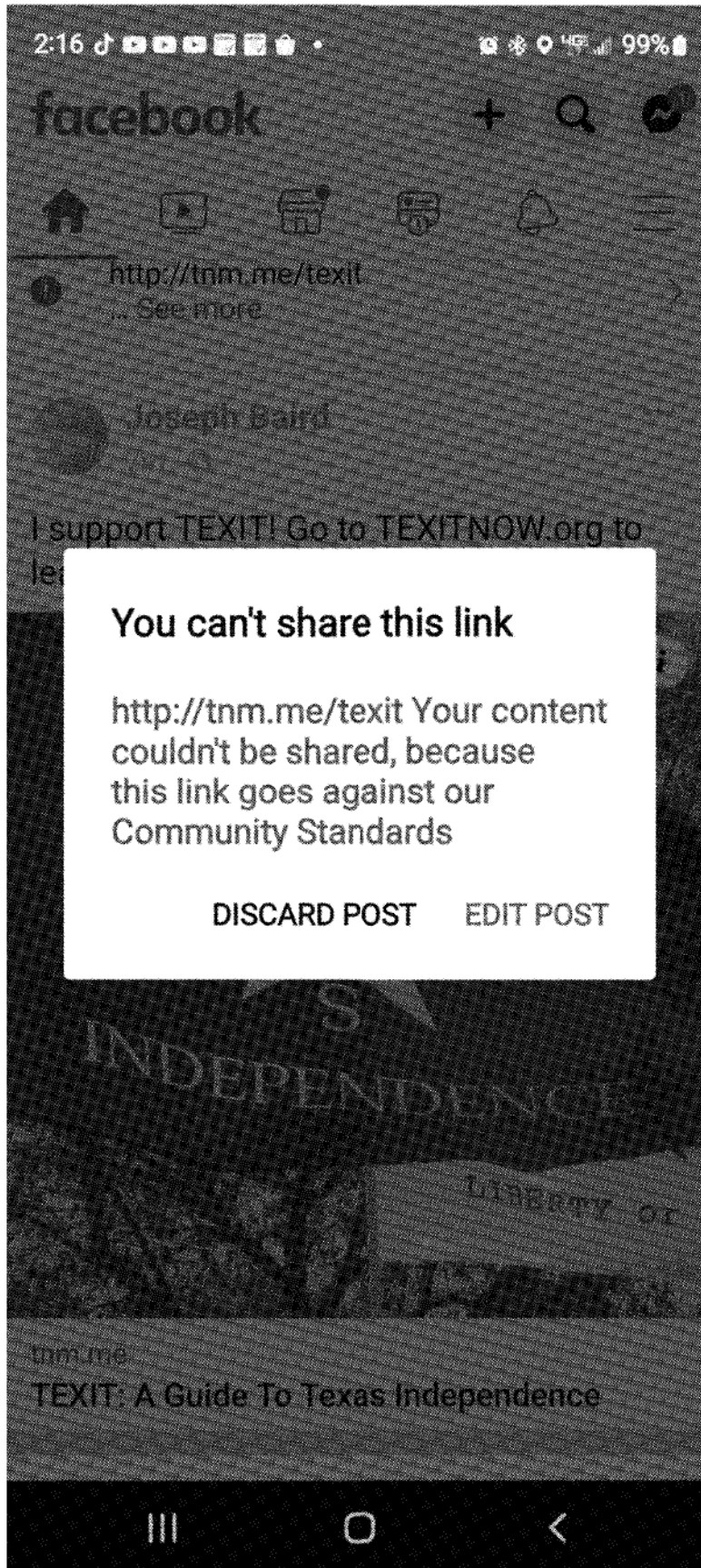
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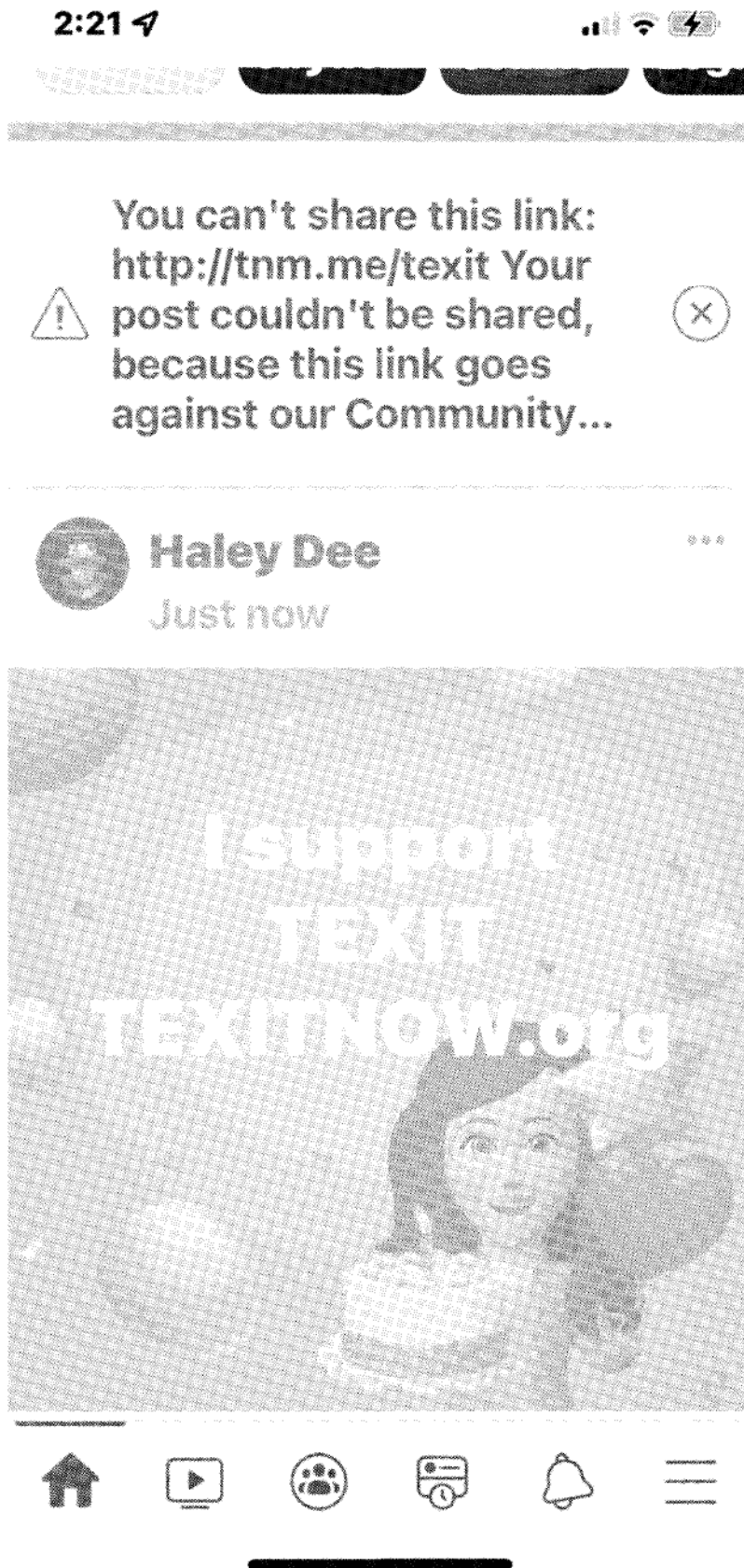
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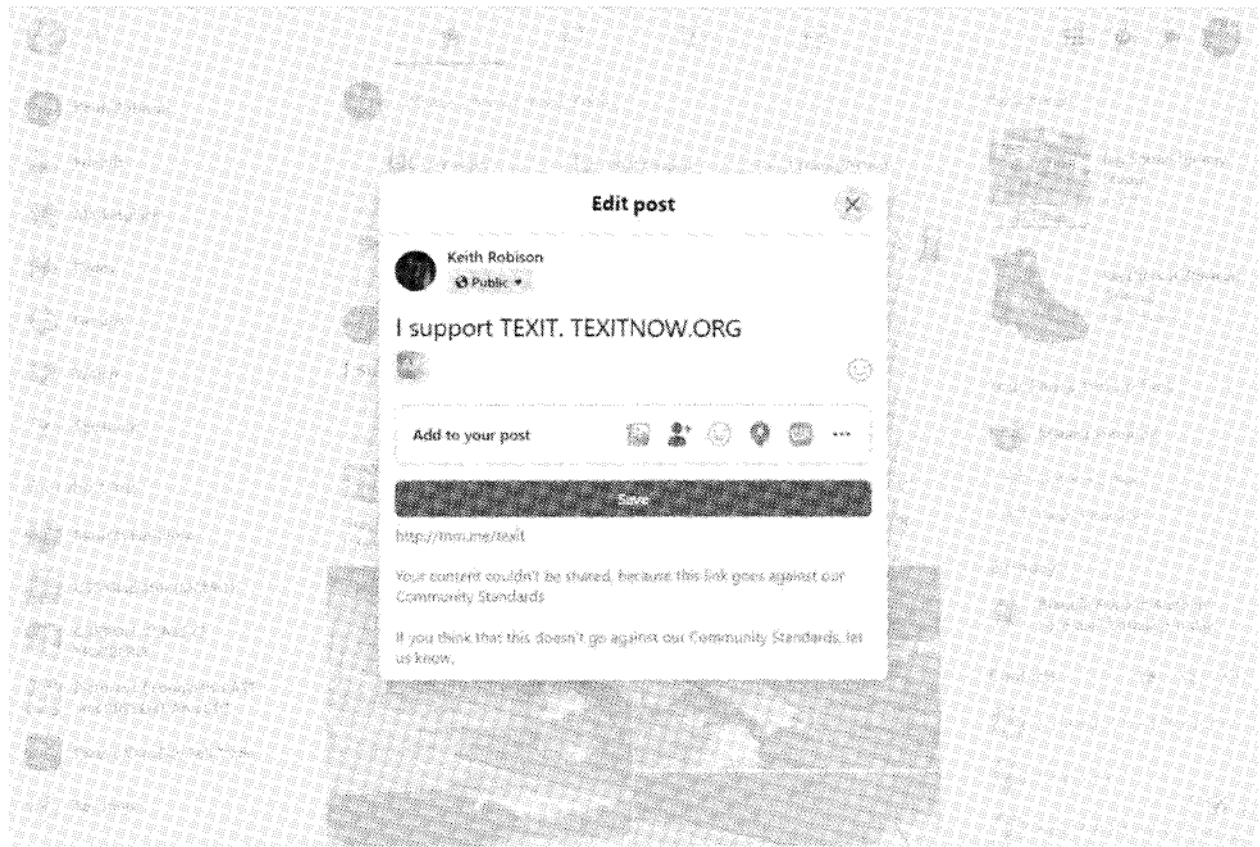
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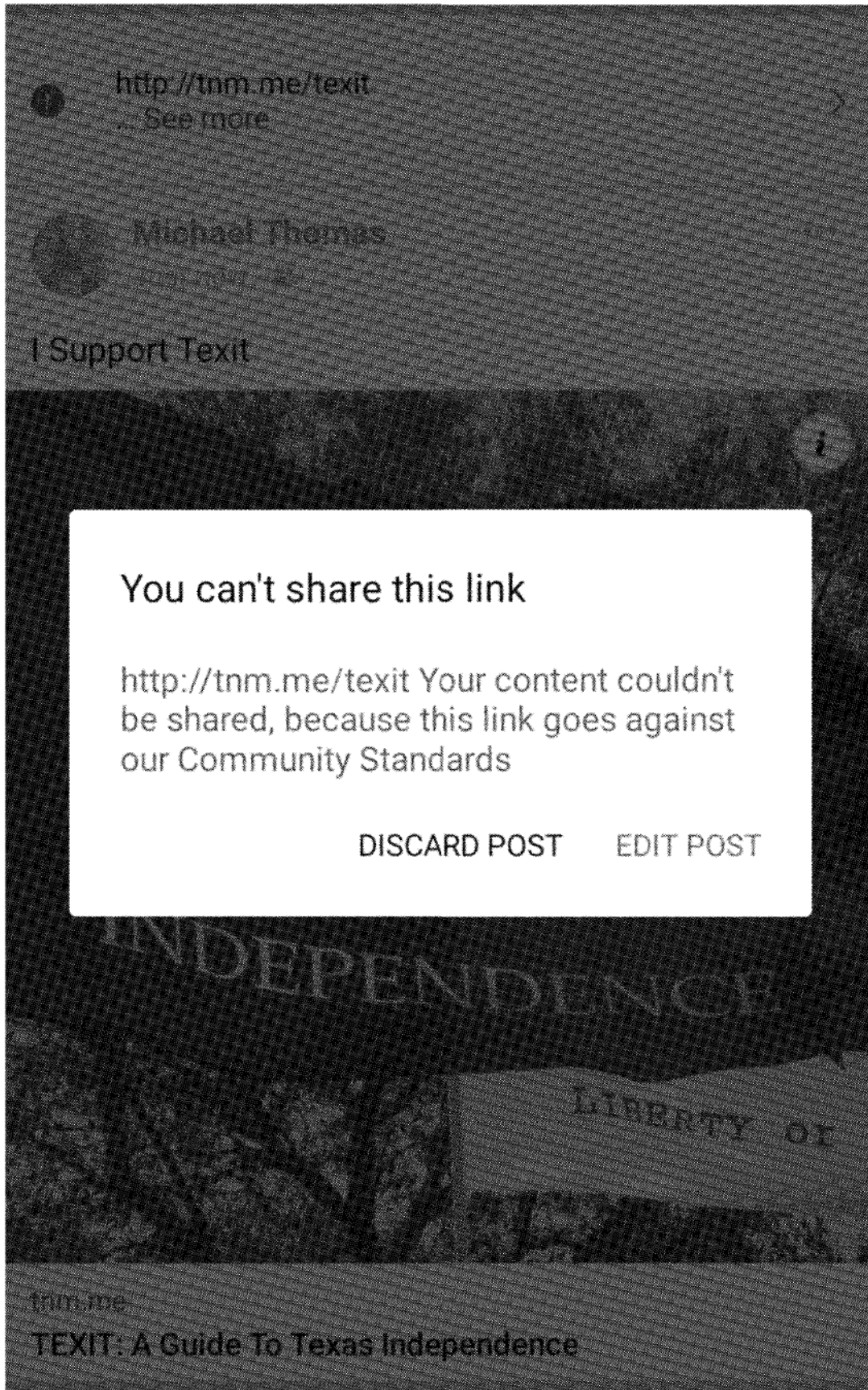
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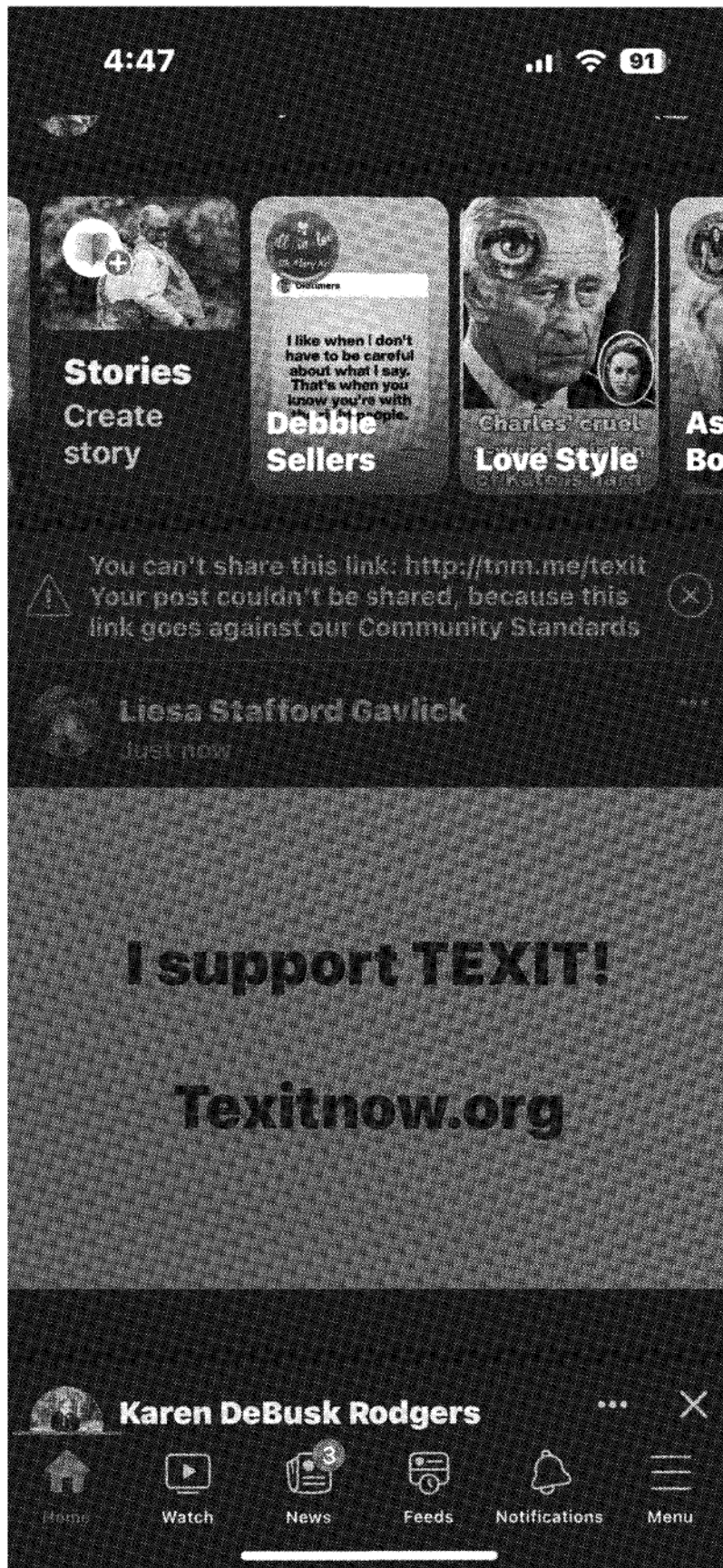
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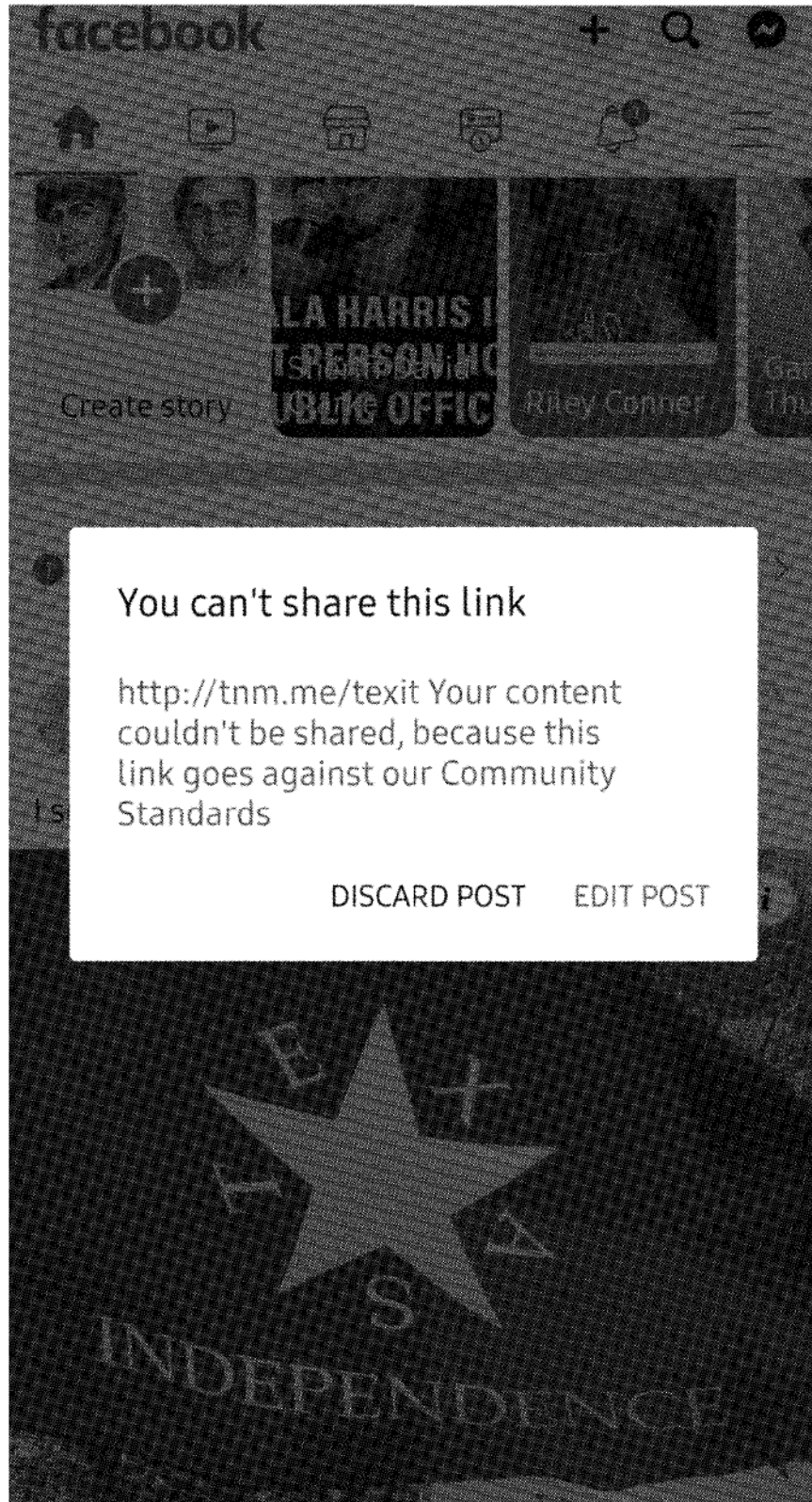
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